



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2011-0058; Notice 1]

Toyota Motor Corporation, Inc., on behalf of Toyota Corporation,
and Toyota Manufacturing, Indiana, Inc., Receipt of
Petition for Decision of Inconsequential Noncompliance

Toyota Motor North America, Inc., on behalf of Toyota Motor
Corporation ¹, and Toyota Manufacturing, Indiana, Inc.²

(collectively referred to as as "Toyota") has determined that
certain model year 2011 Toyota Sienna passenger cars
manufactured between January 3, 2011 and February 11, 2011, do
not fully comply with paragraph S9.5(a)(3) of Federal Motor
Vehicle Safety Standard (FMVSS) No. 225, *Child restraint
anchorage systems*. Toyota has filed an appropriate report
pursuant to 49 CFR Part 573, *Defect and Noncompliance
Responsibility and Reports* (dated March 17, 2011).

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see
implementing rule at 49 CFR part 556), Toyota has petitioned for
an exemption from the notification and remedy requirements of 49
U.S.C. Chapter 301 on the basis that this noncompliance is
inconsequential to motor vehicle safety.

¹ Toyota Motor Corporation is a Japanese corporation that manufactures and imports motor vehicles.

² Toyota Manufacturing, Indiana, Inc., is an Indiana corporation that manufactures motor vehicles

This notice of receipt of Toyota's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Affected are approximately 9,122 model year 2011 Toyota Sienna passenger cars that were manufactured between January 3, 2011 and February 11, 2011, are affected.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the 9,122³ model year 2011 Toyota Seinna passenger cars that Toyota no longer controlled at the time it determined that the noncompliance existed.

Paragraph S9.5 of FMVSS No. 225 requires in pertinent part:

S9.5 Marking and conspicuity of the lower anchorages. Each vehicle shall comply with S9.5(a) or (b). (a) Above each bar installed pursuant to S4, the vehicle shall be permanently marked with a circle...

³ Toyota's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt Toyota as a vehicle manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for 9,122 of the affected vehicles. However, the agency cannot relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Toyota notified them that the subject noncompliance existed. Those vehicles must be brought into conformance, exported, or destroyed.

- (1) That is not less than 13 mm in diameter;
- (2) That is either solid or open, with or without words, symbols or pictograms, provided that if words, symbols or pictograms are used, their meaning is explained to the consumer in writing, such as in the vehicle's owners manual; and
- (3) That is located such that its center is on each seat back between 50 and 100 mm above or on the seat cushion 100 ± 25 mm forward of the intersection of the vertical transverse and horizontal longitudinal planes intersecting at the horizontal centerline of each lower anchorage, as illustrated in Figure 22. The center of the circle must be in the vertical longitudinal plane that passes through the center of the bar (± 25 mm);
- (4) The circle may be on a tag...

Toyota explains that the noncompliance is that the label identifying the location of the lower child restraint anchorages in some of the second row seats of the affected vehicles are located slightly outside the limits as stated within the requirements of S9.5(a)(3) of FMVSS No. 225.

Specifically, Toyota also explains that "the potential deviation of the label location outside the requirement is very small. In a detailed survey of a randomly selected subset involving 18 of these vehicles in which a deviation was observed, the mean deviation was approximately +1.4 mm (i.e. 26.4 mm from the centerline); the maximum deviation observed was +2.5 mm (i.e. 27.5 mm from the centerline); and the standard deviation was only 0.5 mm. While a survey carried out by the seat supplier also supports Toyota's assertions that the

potential deviation of the label location from the specified requirements is very small. In the supplier's survey of 240 labels on 120 seats, 3 labels were outside of the specifications of FMVSS No. 225. All 3 of those labels were measured at +1 mm beyond the specification, or 26 mm from the centerline."

Toyota stated its belief that although the lower child anchorage labels are outside the specified limits of this requirement that the noncompliance is inconsequential to motor vehicle safety for the following reasons:

- (1) The measured deviations are very minor, and such a slight deviation is not noticeable to consumers and would not impair a consumer's ability to locate the lower anchorages.
- (2) Paragraph S9.1 of FMVSS No. 225 requires that the length of the straight portion of the lower anchorage bar be a minimum of 25 mm. In the affected vehicles the length is 30 mm; the total length including the curved portions is 54 mm. As a result, even with greater deviations than noted above in label location, some part of the label would be over some part of the bar, making the bar easy to locate.
- (3) The regulatory history of the provision allowing a ± 25 mm lateral tolerance for the location of the center of the circular label further supports the argument

that this noncompliance has no adverse safety consequences. As originally adopted, FMVSS No. 225 would have limited the lateral tolerance to ± 12 mm. In response to a petition for reconsideration from vehicle manufacturers concerned that such a low tolerance would be difficult to meet due to process limitations and seat design features, NHTSA amended the standard to allow the current ± 25 mm tolerance. 69 Fed Reg. 48818 (August 11, 2004). In doing so, The agency stated:

"...Moreover, the agency believes that increasing the tolerance to 25 mm will not significantly affect the consumers' ability to find the LATCH anchorages. While anchor bars are permitted to be as short as 25 mm in the straight portion of the bar, most are considerably longer. Even if a 25 mm bar were used, with a 25 mm tolerance from the center of the bar, the circle will be, at farthest, tangent to a longitudinal vertical plane tangent to the side of the anchorage bar. If a person were to probe the seat bight in the area directly under the marking circle, his or her finger would easily contact the bar. For bars that are greater than 25 mm in length, with a 25 mm tolerance a portion of the marking circle will always

be over some part of the bar. In either situation, marking the circle with a 25 mm tolerance will adequately provide a visual reminder to consumers that the LATCH system is present and will help users locate and use the bars. Adopting the 25 mm tolerance will also harmonize FMVSS No. 225 with the comparable Transport Canada requirement."

- (4) The seat design is such that only one label at a seating position can be noncompliant. As the seat cover, is constructed, the labels are secured to the fabric a specified distance apart that reflects the location of each pair of anchorages, and the labels are designed to be within the lateral tolerance of the standard.
- (5) Information provided in the vehicle owner's manual further reduces any possibility of confusion when installing a child restraint. The instructions clear advise the installer to recline the second row seat and widen the gap between the seat cushion and the seatback to expose the lower anchorages.

- (6) The label locations are correct for the LATCH anchorage system located at the third row center seating position⁴.
- (7) There have been no customer complaints, injuries, or accidents related to the deviation of the child restraint label location being slightly outside the limits of the requirement.
- (8) The model year 2011 Sienna is sold by Toyota in both the United States and Canada and the subject noncompliance was reported to both NHTSA and Transport Canada at the same time. (In Canada, the applicable standard is CMVSS 210.2; it contains the same requirements as FMVSS No. 225). Transport Canada responded on March 23, indicating it concurs that "there is no real or implied degradation to motor vehicle safety," and that no further action in Canada will be required.

In summation, Toyota believes that the described noncompliance of its vehicles to meet the requirements of FMVSS No. 225 is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of

⁴ Toyota indicated that this LATCH anchorage is not a required by the standard, but was voluntarily installed by Toyota.

noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except Federal Holidays.

c. Electronically: by logging onto the Federal Docket Management System (FDMS) website at <http://www.regulations.gov/>. Follow the online instructions for submitting comments. Comments may also be faxed to 1-202-493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that

your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: (insert date 30 days after Publication Date).

Authority: (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.50 and 501.8)

Issued on: April 16, 2012

Claude H. Harris, Director
Office of Vehicle Safety Compliance

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